

# KIRBY MCINERNEY & SQUIRE, LLP

TELEPHONE:(212) 371-6600

(212) 317-2300

FACSIMILE:(212) 751-2540

IRVING MALCHMAN, OF COUNSEL

## VIA E-FILING

November 4, 2005

Clerk of the Court  
United States District Court for the District of Massachusetts  
Suite 2300  
John Joseph Moakley U.S. Courthouse  
One Courthouse Way  
Boston, Massachusetts 02210

Re: The City of New York and Captioned New York Counties (MDL 1456)  
(No. 01-CV-12257-PBS)

Dear Sir or Madam:

Per this Court's Order entered June 17, 2004 enclosed for filing in the above-captioned matters please find the November 4, 2005 status report for The City of New York and Captioned New York Counties.

Sincerely,

/s/ Aaron D. Hovan  
Aaron D. Hovan

Enclosures  
cc: All Parties on Verilaw

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION

THIS DOCUMENT RELATES TO:

*The City of New York v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 04-CV-06054

*County of Albany v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0425

*County of Allegany v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0236

*County of Broome v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00456

*County of Cattaraugus v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0256

*County of Cayuga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0423

*County of Chautauqua v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0214

*County of Chenango v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0354

*County of Fulton v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0519

*County of Genesee v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-00267

*County of Greene v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0474

*County of Herkimer v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00415

*County of Jefferson v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0715

*County of Madison v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0714

*County of Monroe v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-1648

*County of Niagara v. Abbott Laboratories, Inc., et al.*

**November 4, 2005**

**STATUS REPORT FOR  
THE CITY OF NEW YORK  
AND CAPTIONED NEW  
YORK COUNTIES**

---

W.D.N.Y. Case No. 05-CV-6296

*County of Oneida v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0489

*County of Onondaga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0088

*County of Putnam v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 05-CV-4748

*County of Rensselaer v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00422

*County of Rockland v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 03-CV-7055

*County of St. Lawrence v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0479

*County of Saratoga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0478

*County of Steuben v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6223

*County of Suffolk v. Abbott Laboratories, Inc., et al.*  
E.D.N.Y. Case No. 03-CV-12257

*County of Tompkins v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0397

*County of Warrren v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0468

*County of Washington v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0408

*County of Wayne v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6138

*County of Westchester v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 03-CV-6178

*County of Yates v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-06172

---

The undersigned counsel for the Captioned-plaintiffs (hereinafter referred to as the City of New York and Captioned New York Counties) hereby submit the attached status report to the Court in accordance with the Court's June 17, 2004 Procedural Order.

Date: November 4, 2005

New York, New York

KIRBY McINERNEY & SQUIRE, LLP

By: /s/ Joanne M. Cicala

Joanne M. Cicala

Aaron. D. Hovan

830 Third Avenue

New York, New York 10022

(212) 371-6600

**COUNSEL FOR CITY OF NEW YORK AND  
CAPTIONED NEW YORK COUNTIES**

**MDL 1456 Status Report for the City of New York and Captioned New York Counties**

**Consolidated Complaint**

On August 16, 2005, Foley Hoag, LLP filed on behalf of defendants a Motion to Compel Disclosure by Plaintiff's and for Extension of Time to Comply with the Court's July 8, 2005 order. That motion was withdrawn on September 19, 2005 after plaintiffs disclosed the source of the pricing data set forth in the consolidated complaint.

On October 4, 2005, defendants filed a second Request for Extension of Time and Further Relief in Order to Comply with July 8, 2005 Order. Plaintiff's response was filed on October 12, 2005. No ruling has yet issued.

**Anticipated Filings**

The City of New York and Captioned New York Counties have conferred with Nassau County and defense counsel regarding entry of a case management order to govern all New York County cases pending in or about to be transferred to this MDL. These parties have reached agreement on the terms of same. A joint proposed Case Management Order will be filed the week of November 4, 2005.

**Certificate of Service**

I certify that on November 4, 2005 a true and correct copy of the foregoing November 4, 2005 Status Report was served on all Counsel of Record by electronic service pursuant to Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.

/s/Aaron D. Hovan  
Aaron D. Hovan